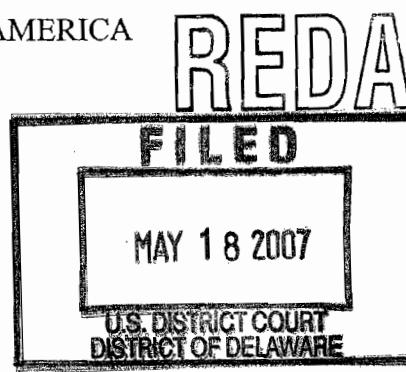


United States District Court
DISTRICT OF DELAWARE

UNITED STATES OF AMERICA

v.
ROBERT DAVIS and
DAVID SOUTHERN



Criminal Complaint

CASE NUMBER: 07-106M-MPT

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

1. From on or about May 15, 2007, until on or about May 17, 2007, Robert Davis and David Southern, defendants herein, knowingly and willfully conspired and agreed together and with each other to commit an offense against the United States, to wit, the acquisition of a firearm, a Kahr .45 caliber pistol, Model P45, Serial No. SA2497, from Targetmaster (255 Wilmington/West Chester Pike, Chadds Ford, Pennsylvania), a licensed firearms dealer, ^{by making} ~~to make a~~ false or fictitious misrepresentation, with the intent to deceive Targetmaster with respect to the lawfulness of the acquisition of such firearm, in violation of 18 U.S.C. §§ 922(a)(6) & 924(a)(2), and in furtherance thereof did commit an act to effect the object of the conspiracy.

All in violation of 18 U.S.C. § 371.

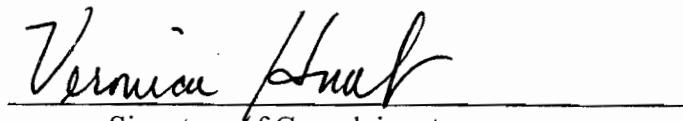
2. On or about May 17, 2007, David Southern, defendant herein, in connection with his acquisition of a firearm, to wit, a Kahr .45 caliber pistol, Model P45, Serial No. SA2497, from Targetmaster (255 Wilmington/West Chester Pike, Chadds Ford, Pennsylvania), a licensed firearms dealer, knowingly made a false and fictitious written statement to Targetmaster, which statement was likely to deceive Targetmaster, as to a fact material to the lawfulness of such sale of the said firearm, in that the defendant represented that he was acquiring the firearm for his own use, when in fact the defendant was purchasing the firearm on behalf of another individual, in violation of Title 18, United States Code, Sections 922(a)(6) and 924(a)(2).

3. On or about May 17, 2007, Robert Davis, defendant herein, in connection with his acquisition of a firearm, to wit, a Kahr .45 caliber pistol, Model P45, Serial No. SA2497, from Targetmaster (255 Wilmington/West Chester Pike, Chadds Ford, Pennsylvania), a licensed firearms dealer, aided and abetted in the making of a false and fictitious written statement to Targetmaster, which statement was likely to deceive Targetmaster, as to a fact material to the lawfulness of such sale of the said firearm, in violation of Title 18, United States Code, Sections 922(a)(6) and 924(a)(2), & 2. RFK
VH

I further state that I am a(n) Special Agent, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and that this complaint is based on the following facts: Official Title

See attached Affidavit.

Continued on the attached sheet and made a part hereof: Yes

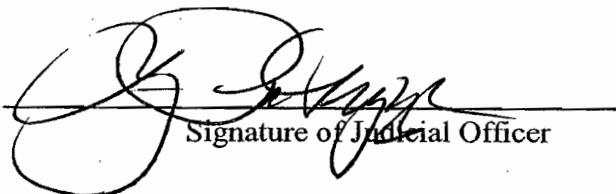


Signature of Complainant
Veronica Hnat
Special Agent, ATF

Sworn to before me and subscribed in my presence,

March 17, 2007 at Wilmington, DE
Date City and State

Honorable Mary Pat Thyng
United States Magistrate Judge
Name & Title of Judicial Officer



Signature of Judicial Officer

Affidavit

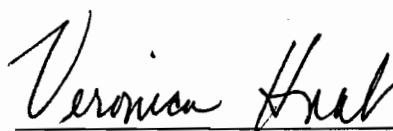
I, Veronica Hnat, being duly sworn, state the follows:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco and Firearms and Explosives (ATF), and has been so employed for approximately seventeen years. During that time, my duties have included the investigation of federal and state firearms offenses. During the course of your affiant's law enforcement career, your affiant has received law enforcement training on the investigation of firearms offenses on numerous occasions. During the course of your affiant's law enforcement career, your affiant has participated in over fifty seizures of firearms and over one hundred investigations of firearms offenses, as well as over one hundred conversations about the facts and circumstances of firearms offenses with the investigating officers of those firearms offenses.
2. This affidavit is in support of a criminal complaint against and arrest warrant for Robert Davis, W/M, DOB: 1974 and David Southern, W/M, DOB: 976.
3. The seizure of all the below stated evidence occurred on May 17, 2007, in Wilmington, State and District of Delaware. Unless otherwise stated, the information in this affidavit is based upon your affiant's personal knowledge.
4. Your affiant reviewed the computer criminal history information for the defendants from the Delaware Justice Information System (DELJIS) and the National Crime Information Center (NCIC) and learned that Robert Davis has a prior felony conviction for Robbery 1st from Sussex County from on or about December 27, 1993 in the Superior Court of the State of Delaware. Your affiant reviewed the criminal history for David Southern and learned that he does not have any prior felony convictions.
5. On May 17, 2007, at approximately 1306 hours an ATF confidential informant (CI) placed a consensually monitored telephone call to Davis and arranged for the purchase of a handgun for his friend. The CI and Davis agreed to meet at the Brandywine Town Center at approximately 1600 hours. The CI informed Davis that his "friend" wanted to purchase a handgun initially, to see if the deal would be successful. The CI further told defendant Davis that, if the deal was successful, he wanted to obtain more firearms, described as "ARs". Defendant Davis expressed his concern that "his guy" would not want to go into the gun store more than once. Davis further explained to the CI that his friend, the straw purchaser, cancelled a meeting to complete the deal that day.
6. At approximately 1600, the CI met Robert Davis in the parking lot of the Brandywine Town Center, Rt. 92 and Rt. 202, Wilmington, Delaware. Defendant Davis entered the CI's vehicle and was followed by Delaware State Police Officers to Target

Master, located at 25 Wilmington/West Chester Pike, Chadds Ford, Pennsylvania. Targetmaster is a licensed federal firearms dealer. The CI and Robert Davis arrived at Target Master's parking lot and met with a white male, who arrived in a White Ford Escape, Pennsylvania registration [REDACTED]. The white male was later identified as David Southern, DOB: [REDACTED] 1976, owner of the Ford Escape, and a resident of Garnet Valley Pennsylvania.

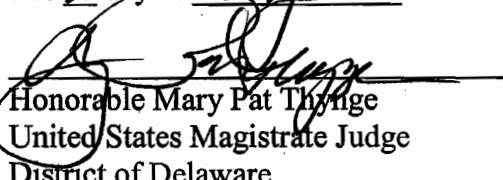
7. The CI and both defendants were observed entering the Target Master together. Approximately thirty minutes later, the CI and both defendants were observed by surveillance officers exiting Target Master. David Southern was observed exiting Target Master holding a white bag. The CI and both defendants entered the CI's vehicle and were followed by surveillance officers across Pennsylvania state lines back to the Brandywine Town Center, Rt. 92 and Rt. 202, Wilmington, Delaware. Once in the parking lot the CI and both defendants were taken into custody. Defendant Davis was in the back seat on the vehicle, while Defendant Southern was in the front passenger seat. The firearm that Southern purchased was in a white plastic bag on the floor of the front passenger seat, at Southern's.
8. Southern was read his Miranda rights and agreed to speak to ATF. He stated that he entered into an agreement with Robert Davis to purchase a firearm for someone other than himself, in return for money. Southern stated that he was to receive approximately \$150.00 to \$250.00 dollars. Southern stated that he believed he was going to purchase a total of three firearms for someone other than himself and receive the above amount of cash for each. He stated that Davis called him several times over the past few days in reference to him making a purchase of several firearms for another individual. Southern stated that he agreed to make the purchases because he needed the money. Southern stated that he did not know the individual he was purchasing for, but knew that it was for a friend of Davis. Southern stated that Davis told him that his friend could not buy the guns legally by himself, and that he could not buy the guns either due to a dishonorable discharge from the military.
9. Southern stated that he agreed to meet Davis at Target Master, in Chadds Ford, Pennsylvania on 5/17/2007 at approximately 1600 hours. He stated that Davis arrived with the individual who wanted the firearms and they all discussed what Southern was to purchase. Southern stated that he was told initially to buy one .45 caliber handgun, and that they would come back to the store later to purchase additional firearms.
10. Southern stated that once they were in the gun store, Davis and his friend picked out a Kahr, model P45, .45 caliber pistol, serial number SA2497. Southern stated that while he was filling out the paperwork, Robert Davis handed him \$700.00 discreetly, to purchase the firearm. The firearm was priced at \$599.99, plus tax. Southern stated that while he was finishing the paperwork, Davis and his friend were looking at the rifles in the store. Southern stated that Davis asked to see the AR 15 rifles, as well as, the AK 47 rifles. The clerk handed the rifles to Davis. Davis and Southern discussed returning later in the day to purchase additional firearms.

11. Southern stated that once the paperwork was complete, all three individuals walked out of the store and entered the CI's vehicle. While driving back to the Brandywine Town Center, Wilmington, Delaware, Davis told Southern that, if approached by law enforcement regarding the guns, he could say that he purchased the gun as a collector and that the guns were stolen.
12. Southern stated that he filled out the ATF F 4473, stating that he was the purchaser of the firearm, knowing that he was purchasing, at the request of Davis, for another individual. Southern stated that he wrote "Yes," to question number 11. a, which reads: Are you the actual buyer of the firearm(s) Warning: You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you. (See Important Notice 1 for actual buyer definition and examples.) Southern stated that he lied when he wrote "yes" in the box for question 11a.
13. Robert Davis was read his Miranda rights and agreed to speak to ATF. Davis admitted that he requested David Southern to purchase firearms for a friend of his. Davis stated that he and his friend were going to sell these firearms to another unknown individual and make a profit. Davis further explained that his friend owed him approximately \$12,000 and this was the arrangement they agreed to in order to settle this debt. Davis said that he suggested to Southern that he could report the firearm stolen if he was worried about where it was going to, or he could just forget about it. Davis stated that Southern to go to a police station if he wanted to report it stolen.



Veronica Hnat
Veronica Hnat
Special Agent, ATF

Sworn to and subscribed in my presence
this 11 day of May 2007



Honorable Mary Pat Thynge
United States Magistrate Judge
District of Delaware

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ACU
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BJSARJEA